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Security Council

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# Letter dated 11 June 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 7 March 2002 (S/2002/261).

The Counter-Terrorism Committee has received the attached supplementary report from Canada, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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**Annex**

## Letter dated 7 June 2002 from the Permanent Representative of Canada to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Further to your note of 7 March 2002, I have the honour to forward to you the Government of Canada's supplementary report to the Counter-Terrorism Committee on measures Canada has taken to implement the provisions of Security Council resolution 1373 (2001) (see attachment).

(*Signed*) Paul Heinbecker
Ambassador
Permanent Representative

**Attachment**

[Original: English/French]

**Report of the Government of Canada to the Counter-Terrorism Committee of the Security Council in response to the letter of the Chairman of the Committee dated 7 March 2002**

## PART I UPDATE ON MATTERS COVERED BY THE PREVIOUS REPORT OF THE GOVERNMENT OF CANADA ON THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1373:

A. Bill C-36 referred to in the responses to **sub-paragraphs 1 (a) to (d), 2 (a) to (e), 3 (a), 3 (d), 3 (e) and 4** received Royal Assent on 18 December 2001 and its provisions are now law as *The Anti-Terrorism Act*.

B. Bill C-44 referred to in the responses to **sub-paragraphs 2 (b), 2 (g) and 3 (a)** received Royal Assent on 18 December 2001 and its provisions are now law as *An Act to amend the Aeronautics Act* .

C. Bill C-42 referred to in the responses to **sub-paragraphs 2 (a) to (c), 2 (g), 3 (a), 3 (f) and 4** was withdrawn from Parliament on 24 April 2002 and replaced on 29 April 2002 with Bill C-55. The new draft legislation includes essentially the same provisions with regard to the furnishing of advance passenger information to law enforcement and security intelligence agencies, tighter controls on explosives and firearms and on technology exports, and implementation of *The Biological and Toxin Weapons Convention*. The provisions regarding amendment of the *Immigration Act* on destinations of persons leaving under a departure order and re-visiting refugee determinations if a person is found to have been involved in terrorism were not included in the new bill because they are part of the new *Immigration and Refugee Protection Act* (IRPA) which takes effect on 28 June 2002.

D. With reference to **sub-paragraph 3 (d)**, the Minister of Foreign Affairs deposited Canada's instrument of ratification of the *International Convention for the Suppression of the Financing of Terrorism* with the Secretary-General of the United Nations on 15 February 2002. Canada also ratified the *International Convention for the Suppression of Terrorist Bombings* on 3 April 2002.

E. With reference to the requirement in **sub-paragraph 1 (c)** to freeze the funds and other financial assets or economic resources of terrorists or terrorist entities, Canadian financial institutions had frozen CAD $360,000 in 20 accounts as of 17 April 2002.

## PART II QUESTIONS RAISED BY THE CTC REGARDING CANADA'S FIRST REPORT ON THE IMPLEMENTATION OF SECURITY COUNCIL RESOLUTION 1373:

**Sub-paragraph 1 (b):**

- **Could Canada please explain whether holding of accounts by a foreign national wanted for or connected with terrorist acts mentioned under paragraph 1 could be dealt with under any of the existing provisions of the criminal code, or in the Bill C-36, or in the alternative whether Section 4 of the Regulations referred to under paragraph 1 (c) adequately deal with that question.**

**RESPONSE:**

The accounts of foreign nationals who are determined on reasonable grounds to be connected with terrorist acts mentioned under paragraph 1 are covered by the Regulations. Any person in Canada and any Canadian outside of Canada are obliged to freeze such accounts pursuant to section 4 of the Regulations.

As a result of Bill C-36, *The Anti-Terrorism Act,* receiving Royal Assent on 18 December 2001, the holding of accounts by a foreign national wanted for or connected with terrorist acts mentioned under paragraph 1 is also dealt with under the Criminal Code of Canada. Terrorist groups, which includes persons in the definition, will have their property effectively frozen by the operation of section 83.08 that prohibits anyone dealing in property belonging to a terrorist group.

- **Do the existing provisions cover economic resources apart from property, funds, services and financial assets?**

**RESPONSE:**

The definition of property in the Criminal Code is intended to cover any form of property (i.e. real and personal property of every description, deeds, and instruments giving rise to any kind of rights or titles to property, and property under the control of any person). The Regulations are likewise intended to catch any form of property, and specifically define "property" in section 1 as including "economic resources".

**Sub-paragraph 2 (b):**

- **Please provide the CTC with information on the mechanism for inter-agency cooperation between the authorities responsible for narcotics control, financial tracking and security with particular regard to the border controls preventing the movement of terrorists.**

**RESPONSE:**

Canada has a number of mechanisms and structures in place to ensure inter-agency cooperation between authorities responsible for curbing drug trafficking, financial tracking and security. There are existing intelligence and security, and law enforcement agreements and memoranda of understanding between a number of Canadian agencies including Citizenship and Immigration Canada (CIC), Canadian Security Intelligence Service (CSIS), RCMP, Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) and Canada Customs and Revenue Agency (CCRA) as well as international agreements relating to border security.

For instance:

- The Enforcement Information Index is an automated system administered by Citizenship and Immigration Canada, with input from the Canadian Security Intelligence Service, that alerts immigration and customs officials at points of entry to threats to national security posed by suspected terrorists;
- Upon declaration of a refugee claim, the individual is interviewed and screening procedures commence. Immigration officers who suspect a security concern can take enforcement action, including continued examination, detention or referral to specialized CIC Divisions and CSIS officials who are now available on site at several major ports of entry and inland offices; previously, security screening was only done after the successful claimant applied for permanent residence or if the individual had been previously characterized as a possible security concern;
- In addition to an existing program for the front end screening of refugee claimants for security and criminality concerns as noted in the response in the previous Canadian report to sub-paragraph 3 (f), in response to the attacks in the US, CIC requested CSIS to also screen those refugee claimants currently in the refugee process;
- Canada is also implementing Integrated National Security Enforcement Teams in major metropolitan areas. These teams will involve personnel from the federal law enforcement and intelligence communities, and from provincial and municipal police services. The work of these teams will be focussed on the criminal activities, no matter how minor, of those elements that pose a threat to the security of Canada;

- The Royal Canadian Mounted Police has also established a Financial Intelligence Branch. The Financial Intelligence Branch (FIB) is designed to detect and identify those persons and entities involved in raising and moving terrorist funds, obtain evidence for prosecution, and detect gaps or weaknesses in the financial system and develop practices and make recommendations to prevent any abuse. In carrying out these tasks, the FIB works very closely with law enforcement agencies, intelligence agencies, other government departments and agencies and the private sector;

- The Government of Canada has underway the Integrated Justice Information Initiative to address obstacles to quick and effective information sharing across the criminal justice system, including agencies such as customs, immigration, police, prosecution, courts, corrections, and parole authorities. The initiative aims to establish the Canada Public Safety Information Network, including a national information-sharing infrastructure to support secure electronic transmission of critical operational information;

- The Canada/United States Integrated Border Enforcement Teams are multi-agency law enforcement teams, which target cross-border crimes. Participation on these teams reflects an integrated policing approach with involvement of federal, provincial and municipal police and other law enforcement personnel. It is anticipated that these teams will have a significant impact in disrupting planned criminal activity and identifying individuals with links to terrorist organizations;

- CIC and the US State Department and US Immigration and Naturalization Service (INS) also have a statement of mutual understanding regarding border security. In addition, CIC receives information on potential security threats electronically from the US State Department and INS; and

- As money laundering and the financing of terrorism are international problems, Canada like many other countries has established a Financial Intelligence Unit to combat them. *The Proceeds of Crime (Money Laundering) and Terrorist Financing Act* requires the reporting of suspicious transactions to the FINTRAC. Regulations regarding large cash transactions, international electronic funds transfers and cross border movements of currency and monetary instruments will be implemented over the course of this year. The reports collected by FINTRAC will be analyzed for unusual patterns of transactions. When FINTRAC determines that there are reasonable grounds to suspect that the information would be relevant to investigating or prosecuting a money laundering or terrorist financing offence, it will disclose only designated information to the appropriate police authorities. When there are reasonable grounds to suspect that the information is relevant to threats to the security of Canada, FINTRAC will disclose that information to CSIS.

**Sub-paragraph 2 (c):**

- **Does the Extradition Act referred to in the response to sub-paragraph 2 (c) , permit extradition even in the absence of a bilateral treaty with another country?**

**RESPONSE:**

Yes.

Canada's assistance under *The Extradition Act* may be engaged on the basis of 1) an extradition treaty between Canada and the state or entity making the request, 2) a multilateral agreement to which both Canada and the requesting State are Parties and which contains a provision on extradition, 3) a specific agreement entered into between Canada and the requesting State or entity with respect to a person or persons in a particular case, and 4) a general designation of the requesting state or entity as an "extradition partner" under the Act thereby allowing the extradition partner full recourse to the provisions of *The Extradition Act* notwithstanding the absence of an extradition treaty. In addition to a number of members of the Commonwealth, Canada has designated two non-commonwealth countries (Costa Rica and Japan) as extradition partners, as well as the International Criminal Tribunals for Rwanda and the former Yugoslavia.

- **Please explain the procedures followed in the absence of a treaty in cases of mutual legal assistance under the Mutual Legal Assistance in Criminal Matters Act.**

**RESPONSE:**

In the absence of a bilateral treaty between Canada and a State requesting mutual legal assistance (MLA), that State may receive it pursuant to a multilateral agreement to which both Canada and that State are a party and which contains a provision on MLA. MLA can also be provided pursuant to a specific agreement entered into between Canada and the requesting State or entity with respect to a person or persons in a particular case. *The Mutual Legal Assistance in Criminal Matters Act* also contains provisions specific to assistance to international criminal tribunals. Currently, the International Criminal Tribunals for the former Yugoslavia and Rwanda are listed in the Act and MLA is therefore available to them.

1 Letters rogatory (court issued non-treaty letters of request)

This mechanism requires two essential conditions: that there be a criminal matter pending before a foreign judge, court or tribunal and that the foreign judicial body wishes to obtain the evidence sought.

No treaty is required for this procedure; it is a discretionary provision. Unlike mutual legal assistance requests, which are often used at the police investigation stage, letters rogatory can only be issued when there is a criminal matter pending before a foreign court.

Section 46 of *The Canada Evidence Act* allows for some compulsory measures to be issued by a Canadian court in response to a request from a foreign state emanating from a judge, court or tribunal of a foreign state (letters rogatory). Witnesses can be compelled to appear and testify before the foreign judicial authority and must produce any relevant documents requested. No other compulsory measures are available.

2. Non Treaty Requests

Canada does what it can to help those countries with which it does not have a treaty relationship. However, assistance is limited to voluntary aspects (e.g. taking voluntary statements from persons or serving documents). No compulsory measures are available where there is no treaty and the request does not come within the requirements of section 46 of *The Canada Evidence Act.*

**Sub-paragraph 3 (e):**

☐ **Please indicate whether the crimes set forth under the relevant international conventions already ratified or to be ratified are extraditable offences under the Extradition Act and under the 51 bilateral treaties concluded by Canada.**

**RESPONSE:**

Yes, all the crimes described in the relevant international conventions are extraditable offences.

☐ **Do existing or proposed laws criminalise acts referred to in the universal instruments for the prevention and suppression of terrorism or are there separate enactments for that purpose?**

**RESPONSE:**

Crimes in international conventions have to be criminalized in domestic legislation. There are separate enactments for this purpose. All the crimes described by the international conventions Canada has ratified are now included in the Criminal Code.

**Other matters:**

☐ **Could Canada please provide an organisational chart of your Government's administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen by your Government as contributing to compliance with the Resolution.**

**RESPONSE:**

No single officially sanctioned organizational chart available at this time captures the level of detail requested by the CTC. The following chart provided by the Privy Council Office describes the general relationships and accountability of a constitutional nature with regard to police, security intelligence and related functions at the federal level. The principal omission from this chart of interest to the CTC is the Department of Finance, which has overall responsibility for financial matters related to the requirements in **sub-paragraph 1 (b)** of Resolution 1373 (freezing of terrorist assets). The Minister of Finance has responsibility for two relevant agencies: FINTRAC, Canada's Financial Intelligence Unit and for the Office of the Superintendant of Financial Institutions. The response provided under 2 (b) above also describes some of the relevant relationships between the various administrative authorities, such as police, immigration, customs, taxation, financial supervision, etc. It should be noted that in Canada substantial responsibilities for law enforcement and justice are exercised by the provincial and territorial authorities. All these agencies are linked by a large number of formal and informal cooperative and consultative arrangements.

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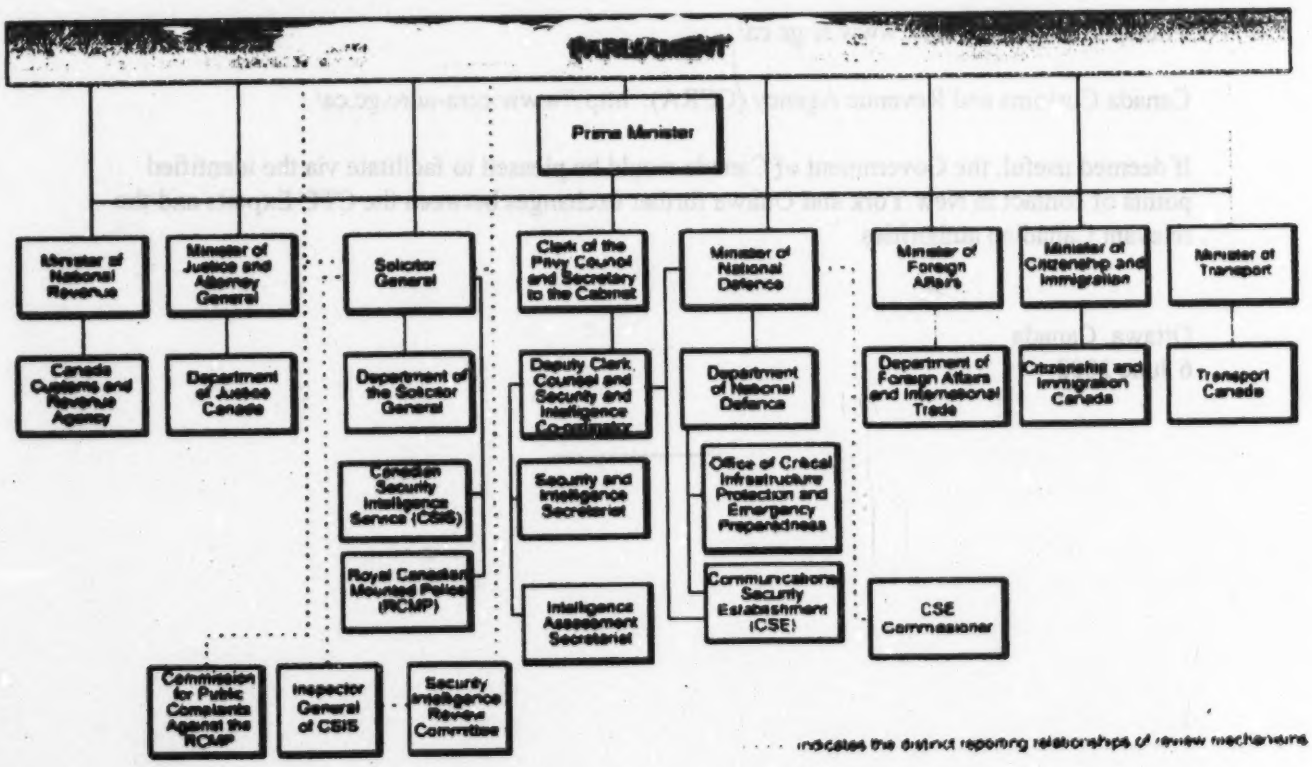
**Canadian Departments and Agencies with Security and Intelligence Roles**


Prime Minister
Minister of National Revenue
Minister of Justice and Attorney General
Solicitor General
Clerk of the Privy Council and Secretary to the Cabinet
Minister of National Defence
Minister of Foreign Affairs
Minister of Citizenship and Immigration
Minister of Transport
Canada Customs and Revenue Agency
Department of Justice Canada
Department of the Solicitor General
Deputy Clerk Counsel and Security and Intelligence Coordinator
Department of National Defence
Department of Foreign Affairs and International Trade
Citizenship and Immigration Canada
Transport Canada
Canadian Security Intelligence Service (CSIS)
Security and Intelligence Secretariat
Office of Critical Infrastructure Protection and Emergency Preparedness
Royal Canadian Mounted Police (RCMP)
Intelligence Assessment Secretariat
Communications Security Establishment (CSE)
CSE Commissioner
Commission for Public Complaints Against the RCMP
Inspector General of CSIS
Security Intelligence Review Committee
indicates the distinct reporting relationships of review mechanisms

The following websites provide further information about matters potentially of interest to the Committee and the Experts, including in several cases departmental organization charts:

Privy Council Office: http://www.pco-bcp.gc.ca

Department of Finance: http://www.fin.gc.ca/

Financial Transactions and Reports Analysis Centre of Canada (FINTRAC): http://www.fintrac.gc.ca/

Department of Foreign Affairs and International Trade: http://www.dfait-maeci.gc.ca/

Citizenship and Immigration Canada: http://www.cic.gc.ca/

Department of Justice: http://canada.justice.gc.ca/

Department of the Solicitor General: http://www.sgc.gc.ca/

Royal Canadian Mounted Police (RCMP): http://www.rcmp-grc.gc.ca/

Canadian Security Intelligence Service (CSIS): http://www.csis-scrs.gc.ca/

Transport Canada: http://www.tc.gc.ca/

Canada Customs and Revenue Agency (CCRA): http://www.ccra-adrc.gc.ca/

If deemed useful, the Government of Canada would be pleased to facilitate via the identified points of contact in New York and Ottawa further exchanges between the CTC Experts and the relevant Canadian authorities.

Ottawa, Canada
6 June 2002